06-CV-00099-SUP

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FILED
FEB 21 2006
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated, Plaintiff, v. JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS, and RANDOM HOUSE, INC., Defendants.	)	06C 0935 JUDGE SHADUR MAGISTRATE JUDGE LEVIN

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1446, as amended in relevant part by the Class Action Fairness Act of 2005, defendants Random House, Inc. ("Random House") and Doubleday & Company, Inc. ("Doubleday") (collectively "Defendants") hereby remove to this Court the above-styled action, pending as Case No. 06-CH-02089 in the Circuit Court of Cook County, Illinois County Department, Chancery Division ("the State Court Action"). As grounds for removal, Defendants states as follows:

Factual Background

1. On January 31, 2006, Plaintiff Marcia Vedral filed the State Court Action in the Circuit Court of Cook County, Illinois County Department, Chancery Division.

2. Defendant Doubleday was served with a summons and complaint ("Cmplt.) on February 6, 2006. To date, defendant Random House has not been served with a summons and complaint.

3. The complaint arises out of the publishing and marketing of the book "A Million Little Pieces" (the "Book") written by defendant James Frey. (Cmplt. ¶¶ 1-3).

4. The complaint contains three counts which seek relief against Defendants: Violation of the Illinois Consumer Fraud Act, 815 ILCS 505/2 (Count I), Breach of Contract (Count II), and Breach of Implied Contract (Count III, plead in the alternative to Count II).[1]

5. Plaintiff is a citizen of the State of Illinois. (Cmplt. ¶ 6).

6. Defendant Random House is a corporation organized and existing under the laws of the State of New York with its principal place of business in New York, New York, and thus is a citizen of New York for these purposes.

7. Defendant Doubleday is a corporation organized and existing under the laws of the State of New York with its principal place of business in New York, New York., and thus is a citizen of New York for these purposes.

8. Defendant Frey is a citizen of the State of New York.

9. Plaintiff seeks to pursue her claims on behalf of a nationwide class of "all persons who purchased *A Million Little Pieces*, in any media. . ." (Cmplt. ¶ 24).

Federal Jurisdiction under the Class Action Fairness Act

10. Application of CAFA. The Court has original jurisdiction of this case pursuant to the Class Action Fairness Act of 2005 ("CAFA" or "the Act"). CAFA creates federal jurisdiction over lawsuits in which "the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs, and is a class action in which . . . any member of a

[1] In addition to defendants Frey, Doubleday, and Random House, the Complaint purports to name as a defendant "Alfred A. Knopf, Inc. d/b/a Anchor Books," which is not a corporate entity. Alfred A. Knopf, Vintage Books, and Anchor Books are divisions of Random House, Inc. Defendants Doubleday and Random House will move at the appropriate time to have these alleged parties dismissed from the action.

class of plaintiffs is a citizen of a State different from any defendant," and the number of members of all proposed plaintiff classes exceeds 100. 28 U.S.C. § 1332(d)(2)(A) and (d)(5).[2] As explained below, each of these criteria are met here.

11. Amount in Controversy. The aggregate amount in controversy in this case exceeds $5,000,000, exclusive of interest and costs. Plaintiff contends that the Court "should disgorge all profits collected from the sale of the book and [Defendants] should be enjoined from continuing the sale of the same." (Cmplt. ¶ 52). Plaintiff also asks the Court to "find that each of the Defendants violated the [Illinois Consumer Fraud Act]" and "[a]ward such damages and equitable relief to Plaintiff and the Class as the Court deems appropriate,"(Cmplt. p. 12) which damages presumably include the purchase price of the Book. Based on sales of the Book, the amount in controversy exceeds the $5,000,000 threshold. (Declaration of Donald Weisberg, Exhibit B hereto, at ¶ 5).[3] The book was sold in both hardcover and paperback editions. *Id.* at ¶ 4. More than 2.5 million copies of the paperback edition were sold with a suggested retail price of $14.95. *Id.* at ¶ 5. These figures demonstrate that in excess of $5,000,000 is at issue in this case. *Id.*

12. Citizenship of the Parties. There is diversity of citizenship between a member of the putative class and defendants Doubleday and Random House:

a. Plaintiff is a citizen of Illinois and there are putative plaintiffs in all 50 states. (*See* D. Weisberg Dec., Ex. B, at ¶ 6.)

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[2] CAFA applies to any action commencing on or after February 18, 2005 – the date when CAFA was enacted. *See* CAFA § 9 ("The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.")

b. Defendants Doubleday and Random House are New York corporations with their principal places of business in New York, New York, and thus are citizens of New York for these purposes.

c. Defendant Frey is a citizen of the State of New York.

d. Accordingly, this action is a class action where "any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A).

13. Number of Class Members. As the above figures indicate, there are more than 100 class members.

14. Mandatory Jurisdiction. CAFA classifies qualifying class actions (i.e., ones in which the $5 million amount-in-controversy is met) by the number of class members located in the state where the action is filed and the citizenship of the defendants. Where less than 1/3 of the class members are located in the state where the action is filed, federal courts are required to accept jurisdiction. *See* 28 U.S.C. § 1332(d)(2). Where more than 1/3 but less than 2/3 of the class members are located in the state where the action is filed, courts are required to apply a group of factors to determine whether to accept jurisdiction. *See* 28 U.S.C. § 1332(d)(3). Where more than 2/3 of the class members are located in the state where the action is filed and certain other criteria are met, courts are required to decline jurisdiction. *See* 28 U.S.C. § 1332(d)(4). In this case, federal jurisdiction over this action is mandatory, not permissive, under CAFA because defendants Doubleday and Random House are not citizens of Illinois and less

[3] Defendants deny that Plaintiff has stated a claim or that certification of a statewide or nationwide class would be appropriate. Defendants further deny that Plaintiff or any putative class member is entitled to any relief whatsoever.

than 1/3 of the class members are citizens of Illinois. *See* D. Weisberg Dec., Ex. B, at ¶ 6.; 28 U.S.C. § 1332(d)(3) and (d)(4).

Procedural Matters

15. Removal is Timely. A notice of removal may be filed within 30 days after the defendant receives a copy of the initial pleading, motion, or other paper from which it may be ascertained that the case is removable. 28 U.S.C. § 1446(b). The United States Supreme Court has held that the 30-day period prescribed in section 1446(b) runs from the date of formal service of the complaint. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 355-56 (1999). Defendant Doubleday was served no earlier than February 6, 2006, and defendant Random House has not yet been served. This notice of removal is thus timely, as the 30-day period for removal for defendant Doubleday does not expire until March 8, 2006.

16. Removal to Proper Court. This Court is part of the "district and division embracing the place where" the State Court Action was filed – Cook County, Illinois. 28 U.S.C. §1446(a).

17. Consent Not Required. Pursuant to 28 U.S.C. § 1453(b), the consent of other defendants to this removal is not required.

18. Pleadings and Process. Pursuant to 28 U.S.C. § 1446(a), attached hereto as Exhibit A is "a copy of all process, pleadings, and orders served upon" defendant Doubleday. No defendant has answered or otherwise filed a responsive pleading to the complaint.

19. Filing and Service. A copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Cook County, Illinois, and is being served on all counsel of

record, consistent with 28 U.S.C. § 1446(d). The Circuit Court of Cook County, Illinois, is located within this district.

WHEREFORE, defendants Random House, Inc. and Doubleday & Company, Inc. respectfully remove this action, now pending in the Circuit Court of Cook County, Illinois County Department, Chancery Division to the United States District Court for the Northern District of Illinois.

Respectfully Submitted,

RANDOM HOUSE, INC. and
DOUBLEDAY & COMPANY, INC.

By: [signature]

One of Their Attorneys

Mark B. Blocker
Michael C. Andolina
Marissa J. Reich
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

Of counsel:

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Jennifer A. Ratner
SIDLEY AUSTIN LLP
555 West Fifth Street
Los Angeles, California 90013
(213) 896-6000

Dated: February 21, 2006

EXHIBIT A

P. 03

2120 - Served | 2121 - Served
2220 - Not Served | 2221 - Not Served
2320 - Served By Mail | 2321 - Served By Mail
2420 - Served By Publication | 2421 - Served By Publication

SUMMONS | ALIAS - SUMMONS | (Rev. 1/2/01) CCG 0001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(Name all parties)

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

v.

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.

No. ______

PLEASE SERVE: Doubleday & Company, Inc
c/o Prentice Hall Corp.
33 N. LaSalle, Chicago, IL
60602-2607

Alfred A. Knopf, Inc. d/b/a Anchor Books
c/o Alberto Vitale, 201 E. 50th Street
New York, NY 10022

Random House, Inc. c/o
Katherine J. Trager, Reg. Agent
1540 Broadway, 22nd Floor
New York, NY 10036

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court at the following location:

☒ Richard J. Daley Center, 50 W. Washington, Room 802, Chicago, Illinois 60602

☐ District 2 - Skokie, 5600 Old Orchard Rd., Skokie, IL 60077
☐ District 3 - Rolling Meadows, 2121 Euclid, Rolling Meadows, IL 60008
☐ District 4 - Maywood, 1500 Maybrook Ave., Maywood, IL 60153
☐ District 5 - Bridgeview, 10220 S. 76th Ave., Bridgeview, IL 60455
☐ District 6 - Markham, 16501 S. Kedzie Pkwy., Markham, IL 60426

You must file within 30 days after service of this summons, not counting the day of service.
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

Atty. No.: 22073
Name: Larry D. Drury, Ltd.
Atty. for: Plaintiff
Address: 205 West Randolph, Suite 1430
City/State/Zip: Chicago, IL 60606
Telephone: 312/346-7950

WITNESS, January 31, 2006

[signature]
Clerk of Court

Date of service: ______
(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at: ______
(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

2120 - Served
2220 - Not Served
2320 - Served By Mail
2420 - Served By Publication
SUMMONS

2121 - Served
2221 - Not Served
2321 - Served By Mail
2421 - Served By Publication
ALIAS - SUMMONS

(Rev.1/2/01) CCG 0001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(Name all parties)

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v.

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.

No. Case No. 06 CH 02089

PLEASE SERVE: Doubleday & Company, Inc c/o Prentice Hall Corp. 33 N. LaSalle, Chicago, IL 60602-2607

Alfred A. Knopf, Inc. d/b/a Anchor Books c/o Alberto Vitale, 201 E. 50th Street New York, NY 10022

Random House, Inc. c/o Katherine J. Trager, Reg. Agent 1540 Broadway, 22nd Floor New York, NY 10036

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Bridgeview, IL 60455

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

Plaintiff,

v.

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS, and RANDOM HOUSE, INC.,

Defendants.

JURY TRIAL DEMANDED

No. 06CH02089

CLASS ACTION COMPLAINT

NOW COMES Plaintiff, Marcia Vedral, individually and on behalf of all others similarly situated, by and through their attorneys, Larry D. Drury, Ltd. and John H. Alexander & Associates, LLC, and, complaining against Defendants, James Frey, Doubleday & Company, Inc., Alfred A. Knopf, Inc. d/b/a Anchor Books, and Random House, Inc. (collectively, "Defendants"), state as follows:

1. James Frey and his publishers captured the hearts and minds of Plaintiff and book lovers who were duped into buying the author's coarse and uplifting "memoir" of recovery from drug alcohol and abuse.

2. Heavily promoted by Oprah Winfrey, the book, *A Million Little Pieces*,[1] has made many millions of dollars, but those sales are attributable to the book's numerous self-styled genuine accounts of Mr. Frey's life destroyed and life reconstructed that never really happened. (*See A*

[1] References herein to "A Million Little Pieces" or the "book" or "memoir" are to this book as published in any media format, e.g., print and audio compact disc (CD).

Million Little Pieces, last page of the story and covers, promotions and flaps attached thereto, Exhibit A.) Though the book is marketed and styled as an inspirational memoir, in January 2006, following recent embarrassing media disclosures Mr. Frey virtually admitted that key accounts in his book amount to nothing more than pure fabrication.

3. Plaintiff seeks relief for herself and other readers who purchased the book and did not get what they paid for, but instead, were induced by each of the defendants to buy (or read) a phony so-called "memoir" of Mr. Frey's genuine accounts of triumph over adversity.

JURISDICTION AND VENUE

4. This Court has jurisdiction in this case pursuant to 725 ILCS 5/2-209, in that the Defendants have transacted business and committed acts relating to the matters complained of herein in this state.

5. Cook County is a proper venue for this action pursuant 735 ILCS 5/2-101 and 5/2-102, in that the transaction or some part thereof out of which this cause of action arose occurred within Cook County, and because the Defendants conduct business in Cook County and at least one of the Defendants is authorized to transact business in Illinois.

PARTIES

6. At all relevant times, Plaintiff, Marcia Vedral, resided in Cook County, Illinois. She purchased *A Million Little Pieces* in November or December 2005, published by the Defendants, at Border's Books located in Mt. Prospect, Cook County, Illinois, because she had seen the book deceptively promoted by Mr. Frey on the Oprah Winfrey show, and by the Defendants on or in the book itself (e.g., Exhibit A), as a true account of the author's battles as a drug addict and of the author's recovery.

7. Defendant James Frey is the author of *A Million Little Pieces* and is, with respect to the conduct herein alleged, an agent of each of the publisher Defendants, in writing, promoting, marketing and representing the book as a memoir and true and honest work of non-fiction. Mr. Frey undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Cook County, Illinois in that, at all relevant times, he has profited from sales of the book, represented as described herein, in Cook County, Illinois. Mr. Frey received a hefty cash advance from the publisher-Defendants for the sale of the book and on information and belief receives a portion of the profit from sales of the book.

8. Defendant, Alfred A. Knopf, Inc., a book publisher and a division and agent of Defendant Random House, Inc., promoted, marketed, published, represented and caused to be sold, the book, *A Million Little Pieces*, under the respected Anchor Books brand name, on behalf of itself and Random House, Inc., to and for consumption by Plaintiff and the Class, as a memoir and true and honest work of non-fiction. Alfred A. Knopf, Inc., undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Illinois.

9. Defendant Doubleday & Company, Inc. ("Doubleday"), a division and agent of Defendant Random House, Inc. and a respected name in the publishing industry, promoted, marketed, published, represented, and caused to be sold, the book, *A Million Little Pieces*, on behalf of itself and Random House, Inc., to and for consumption by Plaintiff and the Class as a memoir and true and honest work of non-fiction. Doubleday undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Illinois. Ms. Nan A. Talese is a Senior Vice President of Doubleday and the Publisher and Editorial Director of Nan

A. Talese/Doubleday, a trade book publishing imprint that also published *A Million Little Pieces*. Ms. Talese is listed as one of the publishers of Plaintiff's book.

10. Defendant Random House, Inc., a well-known publishing house that readers trust and respect, promoted, marketed, published, represented and caused to be sold, the book, *A Million Little Pieces* to and for consumption by Plaintiff and the Class as a memoir and true and honest work of non-fiction. Random House, Inc. perpetrated said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Illinois.

SUBSTANTIVE ALLEGATIONS

11. *A Million Little Pieces* is styled and promoted as a true account of Mr. Frey's life as a destructive, drug-addicted young adult who resurrects his life in a rehabilitation program.

12. Mr. Frey reportedly told Cleveland's *Plain Dealer* in a May 2003 interview that the book was straight non-fiction, claiming that his publisher, Doubleday, "contacted the people I wrote about in the book. All the events depicted in the book checked out as factually accurate. I changed people's names. I do believe in the anonymity part of AA. The only things I changed were aspects of people that might reveal their identity. Otherwise, it's all true." (*See* thesmokinggun.com.)

13. However, the book was only published as a memoir after it was reportedly shopped as a novel to numerous publishing houses, each of which declined to publish the book. Mr. Frey has reportedly stated that it was his publishers' decision to publish the book as a memoir.

14. The book gained increased popularity resulting from Oprah Winfrey's endorsement of the redemptive tale as part of her well-known "Book Club." Moreover, in the October 26, 2005, Oprah Winfrey television show entitled "The Man Who Kept Oprah Awake at Night," Winfrey

reportedly hailed Frey's graphic "memoir" as 'like nothing you've ever read before.' The show included emotional filmed testimonials, whereby employees of Winfrey's show lauded the book as revelatory, with some choking back tears. thesmokinggun.com. Plaintiff Vedral purchased the book, at least in substantial part, due to Oprah Winfrey's and Mr. Frey's favorable recommendation and description of the work as an inspiring memoir and work of non-fiction, as part of Mr. Frey's interview on the October 2005 Oprah Winfrey Show.

15. The Defendants, via the text and advertisements appearing on and in the book itself, Mr. Frey's numerous media interviews and book store appearances, and the Defendants' uniform representations of the book for media sales, have at all relevant times mutually represented, marketed and promoted the book to Plaintiff and the Class solely as a true, genuine story and work of non-fiction.

16. Without objection from any of the Defendants at any time, and at their request and as a result of their own listings, the book was featured on the New York Times best seller list and in numerous major book stores and media (e.g., amazon.com) in the non-fiction category and as a memoir.

17. Only very recently the Smoking Gun, an investigative news web site, reported that Mr. Frey "*fictionalized his past*" and "*wholly fabricated or wildly embellished*" many crucial accounts in the book, and further, that numerous other accounts central to the book and the story could not be verified. (*See, e.g.*, "A Million Little Lies," presently reported on thesmokinggun.com). Frey has since reportedly admitted to The Smoking Gun that he had embellished central details of his criminal career and purported incarceration -- which constitute only some of the non-truths in the book -- for obvious dramatic reasons.

18. Mr. Frey also has since admitted on the Larry King show, and on the Oprah Winfrey show in January 2006 that parts of his book were not true and accurate.

19. A January 26, 2006, news release on Random House, Inc.'s website conceded the significance of Mr. Frey's recent admissions, stating "It is not the policy or stance of this company that it doesn't matter whether a book sold as nonfiction is true."

20. More than 1.7 million copies of the memoir, first published in 2003 by Random House's Doubleday division, have been sold to Plaintiff and the Class, but 3.5 million copies have reportedly been printed.

21. Rather than recall the book, the publisher-Defendants have, to date been content to promise to include an nondescript editorial note entitled "new notes from the publisher and from the author" in editions of their book, but to continue to promote, market and sell it as a memoir and work of "non-fiction" and to reap continuing profits from the sale of same. In fact, Defendant Random House, Inc. has expressly denied that it is offering special refunds for the so-called "memoir".

22. Defendant Doubleday is reportedly printing new copies of the book, to capitalize on the recent media controversy surrounding the book's untruths and thereby receive substantial profits from the fruit of the Defendants' fraudulent and misleading representations.

23. Plaintiff and the Class purchased the book, and many of them, too, spent time reading it, expecting to receive a inspiring memoir and true tale of non-fiction. As a result of the Defendants' phony marketing and representations as a so-called memoir and honest work of non-fiction, Plaintiff and the Class were damaged and deceived.

CLASS ALLEGATIONS

24. Plaintiff brings this case as a class action, pursuant to 735 ILCS 5/2-801, on behalf of a Class of all persons who purchased *A Million Little Pieces*, in any media (e.g., books and CDs).

25. The Class is so numerous as to render joinder of the individual class members impracticable.

26. Common questions of law and fact predominate over questions as to the resolution of this case with respect to individual class members, including, without limitation:

a. Did Defendant Frey fabricate key portions of *A Million Little Pieces*?

b. Did each of the Defendants intend that Plaintiff and the Class rely on the depiction of the book as a "memoir" and a work of non-fiction in deciding to buy the book?

c. Were Plaintiff and the Class damaged by virtue of the Defendants' herein alleged conduct, in violation of the Illinois Consumer Fraud Act and the similar laws of other states?

d. Were each of the Defendants unjustly enriched by their herein alleged conduct?

27. Plaintiff's claims are typical of those of the Class and will adequately represent same; Plaintiff's interest is not antagonistic to those of the Class, and Plaintiff's counsel are experienced in class action litigation.

28. This case will not be unmanageable as a class action; indeed, the facts of this case are particularly conducive to a class action, in that Plaintiff alleges that she and the Class were damaged by the same, uniformly represented wrongful conduct.

COUNT I
Statutory Fraud

29. Plaintiff incorporates by reference and realleges the preceding paragraphs of the Complaint.

30. The Illinois Consumer Fraud Act (ICFA or "the Act"), 815 ILCS § 505 *et. al*, prohibits false, deceptive, misleading and unfair acts or practices, "....including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact...." 815 ILCS § 505/2.

31. Plaintiff, individually and on behalf of the Class, brings this cause pursuant to IFCA and the similar deceptive practices consumer protection acts of other states (hereinafter collectively "ICFA"), which are designed to protect consumers against deceptive or fraudulent business practices.

32. At all relevant times, Plaintiff and the other Class members were consumers or persons within the meaning of ICFA.

33. The Defendants' acts, misrepresentations and omissions as stated above occurred during the course of trade and commerce within the meaning of ICFA.

34. Each of the Defendants, mutually and on their own behalf, via their publishing and marketing campaign for the book including without limitation, via instructing retailers and sellers to sell and list the book in the category of non-fiction and/or memoir, via their representations and promotions on/in the book, and via Mr. Frey's numerous media interviews (e.g., newspapers and television) and public appearances in bookstores, uniformly misrepresented the work as a

non-fiction memoir and uniformly failed to disclose that the book was mere fiction – in order to create a marketable and profitable book product and increase book sales. Indeed, prior to the Defendant publishers' decision to market and make the book, other publishing houses had rejected the book when it was pitched to them as a work of fiction.

35. The Defendants each reasonably knew and intended that Plaintiff and the Class rely on the Defendants' said depiction of the book as a memoir and genuine account of non-fiction, in order to induce Plaintiff and the Class to purchase and read the book.

36. Plaintiff expected to receive a memoir and true nonfiction story because, by the time she purchased the book, she had viewed the Defendants' marketing and promotion of the book as a work of non-fiction and memoir, i.e., including the Defendants' representations and omissions contained on/in the book, the listing of the book for sale in the category of non-fiction and/or memoir, and Mr. Frey's interviews or public appearances, namely, his first interview on the Oprah Winfrey show in 2005. The putative Class members, too, expected to receive a memoir and true nonfiction story after being exposed to the Defendants' same marketing and promotional campaign, which, by design, conveyed the single-minded, and very profitable message that the book was a true tale.

37. The Defendants' acts, misrepresentations and omissions as described herein (i.e., portraying the book as a memoir and true non-fiction story), are false pretenses and material facts which induced Plaintiff and the Class to buy (and/or read) the books. For example, had Plaintiff and the Class members known of these wrongful practices and known that the book was not a memoir and a genuine account of the author's life, they would never have purchased the book.

38. The Defendants, by uniformly concealing, misrepresenting and failing to disclose

any of the aforementioned material facts (*see*, e.g., ¶¶ 34-37), by the marketing the sale of the book under false pretense (*Id.*), and by engaging in the conduct alleged herein (*Id.*), proximately caused damage to Plaintiff and the Class who, by virtue of said conduct, did not buy (or get to read) what they reasonably expected.

39. The Defendants' mutual misrepresentation of the book as a memoir and a true and honest work of non-fiction, and concealment of crucial non-true stories that were built-in to dramatize the book, constitutes a deceptive practice and false promise and false pretense for purposes of selling the book to induce sales, in violation of ICFA.

40. The Defendants' above-stated conduct constitutes a continuing threat to the consuming public.

41. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, and should be enjoined from continuing the sale of the book.

COUNT II
Breach of Contract

42. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

43. Each of the Defendants, as alleged herein, mutually and collectively offered the book, *A Million Little Pieces*, to Plaintiff and the Class as a "memoir" and as a true non-fiction story.

44. Plaintiff and the Class accepted the Defendants' offer and paid for the book (including applicable taxes) as represented, i.e., as a memoir and non-fiction story, and paid consideration therefore.

45. The Defendants breached their contract with Plaintiff and the Class, in that, in truth and in fact *A Million Little Pieces* is not a memoir and is riddled with falsehoods and untruths.

46. As a result of the Defendants' breach, Plaintiff and the Class have been damaged, to the unjust enrichment of each of the Defendants, whose respective profits and revenues therefrom should be refunded and disgorged to Plaintiff and the Class.

COUNT III
Breach of Contract Implied in Law
– Pleaded in the Alternative

47. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

48. Each of the Defendants receive monies from sales of *A Million Little Pieces*, and each of the Defendants are unjustly enriched by sums they each illicitly recouped from Plaintiff and the Class, through their wrongful conduct as alleged herein.

49. The Defendants engaged in a concerted pattern of conduct, whereby Plaintiff and the Class, due to the Defendants' false and unfair marketing and depiction of the book as a memoir and true an honest work of non-fiction, remitted monies for the purchase of *A Million Pieces*, which unfairly inured to the benefit of each of the Defendants.

50. The amount of money paid by Plaintiff and the putative Class members, and received by the Defendants, for the purchase of the books at issue, exceeds the amount to which the Defendants are entitled, in that the book was falsely represented as a memoir, as non-fiction, and as a true and genuine story of an individual's trials and admirable rehabilitation as a drug addict.

51. As a result, the Defendants have unjustly retained the amount of payments they received from Plaintiff and the Class resulting from the purchase of the book, in breach of the

Defendants' contracts with Plaintiff and the Class for the sale of the book, which are implied in law; and the retention of said monetary benefits violates the principles of justice, equity, and good conscience.

52. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, should disgorge all profits collected from the sale of the book and should be enjoined from continuing the sale of same.

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually and on behalf of all others similarly situated, prays that this Honorable Court:

A. Certify this case as a class action, and appoint Plaintiff as class representative and Plaintiff's counsel as class counsel;

B. Award such damages and equitable relief to Plaintiff and the Class as the Court deems appropriate;

C. Find that each of the Defendants violated the ICFA, and were unjustly enriched or alternatively breached their contracts with Plaintiff and the Class, as alleged herein;

D. Award reasonable attorney's fees and costs; and

E. Grant such other relief as it deems just.

By: ______________________
One of Plaintiff's Attorneys

Larry D. Drury
Ilan Chorowsky
Larry D. Drury Ltd.
205 W. Randolph Street, Suite 1430
Chicago, IL 60606
(312) 346-7950
Atty. No. 22873

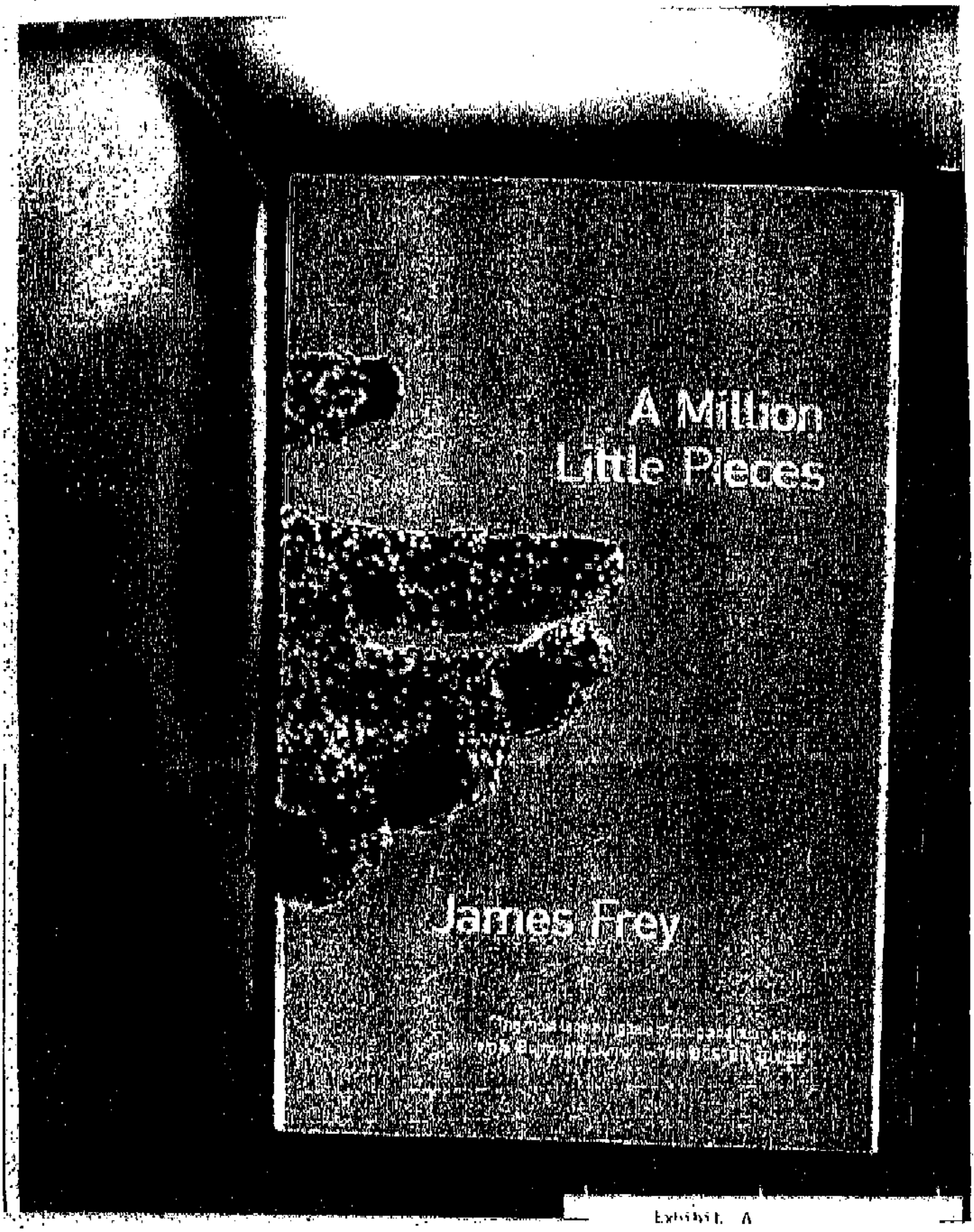
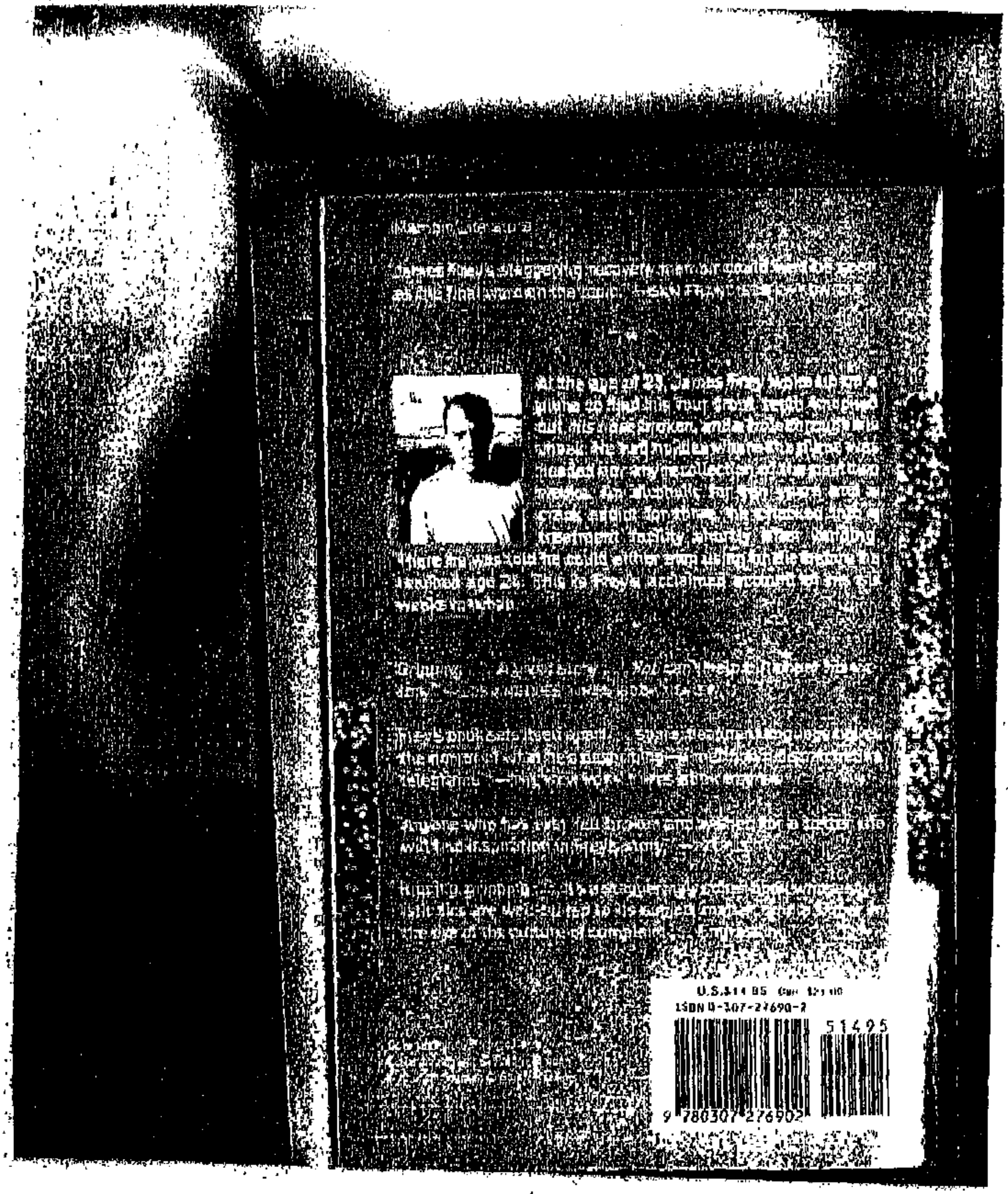

A Million
Little Pieces
James Frey

Exhibit A


U.S.$14.95
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51495
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morning James was released from Jail, and it is believed that she was sober until she died.

Lincoln still works at the Clinic.

Ken still works at the Clinic

Hank and Joanne got married. Both still work at the Clinic.

James has never relapsed.

* * *

Thank you Mom and Dad for everything, thank you Mom and Dad. Thank you Brother Bob and Sister-in-Law Laura. Thank you Maya, I love you Dearest Maya. Thank you Kassie Evashevski. Thank you Sean McDonald. Thank you Nan Talese. Thank you David Kanneman. Thank you Preacher and Bella my little Friends. Thank you Stuart Hawkins, Elizabeth Sesnow, Kevin Yorn, Amar Douglas Rao, Michael Craven, Quinn Yancey, Christian Yancey, Ingrid Sisson, John Von Brachel, Helen Morley, Jean Joseph Jr., Joshua Dorfman, Daniel Glasser, Marvin Klotz, Colleen Silva, Eben Strousse, Chris Wardwell. Thank you Theo, Rigo, Jose and the Boys at the Coffee Shop on the corner. Thank you Phillip Meters. Thank you Andrew Barash and Keith Bray. Thank you Kris, Julie, Kevin. Thank you Lily, Leonard, Miles, I love you and I thank you.

FIRST ANCHOR BOOKS EDITION, MAY 2004

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a

million

little

pieces

a

million

little

pieces

james frey

ANCHOR BOOKS

A DIVISION OF RANDOM HOUSE, INC.

NEW YORK

"Incredible. . . . A ferociously compelling memoir."
—*The Plain Dealer*

"Insistent as it is demanding. . . A story that cuts to the nerve of addiction by clank-clank-clanking through the skull of the addicted. . . . A critical milestone in modern literature."
—*Orlando Weekly*

"At once devastatingly bleak and heartbreakingly hopeful . . . Frey somehow manages to make his step-by-step walk through recovery compelling."
—*Charlotte Observer*

"A stark, direct and graphic documentation of the rehabilitation process. . . . The strength of the book comes from the truth of the experience."
—*The Oregonian*

"A virtual addiction itself, viscerally affecting. . . . Compulsively readable."
—*City Paper* (Washington, DC)

"Powerful . . . haunting . . . addictive. . . . A beautiful story of recovery and reconciliation."
—*Iowa City Press-Citizen*

"An exhilarating read . . . Frey's intense, punchy prose renders his experiences with electrifying immediacy."
—*Time Out New York*

"Describes the hopelessness and the inability to stop with precision. . . . As anyone who has ever spent time in a rehab can testify . . . he gets that down too."
—*St. Louis Post-Dispatch*

"Frey comes on like the world's first recovering-addict hero. . . . [His] criticism of the twelve-step philosophy is provocative and his story undeniably compelling."
—*GQ*

"[A] gruesomely absorbing account, told in stripped-down, staccato prose."
—*Details*

"Frey has devised a roiling, pulsating style that really *moves*. . . . undeniably striking. . . . A fierce and honorable work that refuses to glamorize [the] author's addiction or his thorny personality. . . . A book that makes other recovery memoirs look, well, a little pussy-ass."
—*Salon*

james frey

a million little pieces

James Frey is originally from Cleveland.
He is also the author of *My Friend Leonard*.
He is married and lives in New York.

acclaim for james frey's

a million little pieces

"A frenzied, electrifying description of the experience."
—*The New Yorker*

"We finish *A Million Little Pieces* like miners lifted out of a collapsed shaft: exhausted, blackened, oxygen-starved, but alive, thrillingly, amazingly alive."
—*Minneapolis Star-Tribune*

"One of the most compelling books of the year. . . . Incredibly bold. . . . Somehow accomplishes what three decades' worth of cheesy public service announcements and after-school specials have failed to do: depict hard-core drug addiction as the self-inflicted apocalypse that it is."
—*New York Post*

"Thoroughly engrossing. . . . Hard-bitten existentialism bristles on every page. . . . Frey's prose is muscular and tough, ideal for conveying extreme physical anguish and steely determination."
—*Entertainment Weekly*

"Incredible. . . . Mesmerizing. . . . Heart-rending."
—*Atlanta Journal-Constitution*

"A rising literary star . . . has birthed a poetic account of his recovery. [*A Million Little Pieces* is] stark . . . disturbing . . . rife with raw emotion."
—*Chicago Sun-Times*

"Frey will probably be hailed in turn as the voice of a generation."
—*Elle*

"We can admire Frey for his fierceness, his extremity, his solitary virtue, the angry ethics of his barroom tribe, and his victory over his furies. . . . A compelling book."
—*New York*

"An intimate, vivid and heartfelt memoir. Can Frey be the greatest writer of his generation? Maybe."
—*New York Press*

2120 - Served
2220 - Not Served
2320 - Served By Mail
2420 - Served By Publication
SUMMONS

2121 - Served
2221 - Not Served
2321 - Served By Mail
2421 - Served By Publication
ALIAS - SUMMONS

(Rev.1/2/01) CCG 0001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(Name all parties)

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

Plaintiff

v.

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.,

Defendants.

No. 06 CH 02009

PLEASE SERVE:

Doubleday & Company, Inc.
c/o Jacqueline Chasey, Esq.
Bertelsmann, Inc.
1540 Broadway
New York, NY 10036

ALIAS SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court at the following location:

☒ Richard J. Daley Center, 50 W. Washington, Room 802, Chicago, Illinois 60602

☐ District 2 - Skokie
5600 Old Orchard Rd.
Skokie, IL 60077

☐ District 3 - Rolling Meadows
2121 Euclid
Rolling Meadows, IL 60008

☐ District 4 - Maywood
1500 Maybrook Ave.
Maywood, IL 60153

☐ District 5 - Bridgeview
10220 S. 76th Ave.
Bridgeview, IL 60455

☐ District 6 - Markham
16501 S. Kedzie Pkwy.
Markham, IL 60426

You must file within 30 days after service of this summons, not counting the day of service.
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

Atty. No.: 22073
Name: Larry D. Drury, Ltd.
Atty. for: Plaintiff
Address: 205 West Randolph, Suite 1430
City/State/Zip: Chicago, IL 60606
Telephone: 312/346-7950

WITNESS, February 9, 2006

Clerk of Court

Date of service: 2-15-06
(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at: ____________
(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated, Plaintiff,	)	JURY TRIAL DEMANDED
v.	)	No. 06CH 02089
JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS, and RANDOM HOUSE, INC., Defendants.	)	

CLASS ACTION COMPLAINT

NOW COMES Plaintiff, Marcia Vedral, individually and on behalf of all others similarly situated, by and through their attorneys, Larry D. Drury, Ltd. and John H. Alexander & Associates, LLC, and, complaining against Defendants, James Frey, Doubleday & Company, Inc., Alfred A. Knopf, Inc. d/b/a Anchor Books, and Random House, Inc. (collectively, "Defendants"), state as follows:

1. James Frey and his publishers captured the hearts and minds of Plaintiff and book lovers who were duped into buying the author's coarse and uplifting "memoir" of recovery from drug alcohol and abuse.

2. Heavily promoted by Oprah Winfrey, the book, *A Million Little Pieces*,[1] has made many millions of dollars, but those sales are attributable to the book's numerous self-styled genuine accounts of Mr. Frey's life destroyed and life reconstructed that never really happened. (*See A*

[1] References herein to "A Million Little Pieces" or the "book" or "memoir" are to this book as published in any media format, e.g., print and audio compact disc (CD).

Million Little Pieces, last page of the story and covers, promotions and flaps attached thereto, Exhibit A.) Though the book is marketed and styled as an inspirational memoir, in January 2006, following recent embarrassing media disclosures Mr. Frey virtually admitted that key accounts in his book amount to nothing more than pure fabrication.

3. Plaintiff seeks relief for herself and other readers who purchased the book and did not get what they paid for, but instead, were induced by each of the defendants to buy (or read) a phony so-called "memoir" of Mr. Frey's genuine accounts of triumph over adversity.

JURISDICTION AND VENUE

4. This Court has jurisdiction in this case pursuant to 725 ILCS 5/2-209, in that the Defendants have transacted business and committed acts relating to the matters complained of herein in this state.

5. Cook County is a proper venue for this action pursuant 735 ILCS 5/2-101 and 5/2-102, in that the transaction or some part thereof out of which this cause of action arose occurred within Cook County, and because the Defendants conduct business in Cook County and at least one of the Defendants is authorized to transact business in Illinois.

PARTIES

6. At all relevant times, Plaintiff, Marcia Vedral, resided in Cook County, Illinois. She purchased *A Million Little Pieces* in November or December 2005, published by the Defendants, at Border's Books located in Mt. Prospect, Cook County, Illinois, because she had seen the book deceptively promoted by Mr. Frey on the Oprah Winfrey show, and by the Defendants on or in the book itself (e.g., Exhibit A), as a true account of the author's battles as a drug addict and of the author's recovery.

7. Defendant James Frey is the author of *A Million Little Pieces* and is, with respect to the conduct herein alleged, an agent of each of the publisher Defendants, in writing, promoting, marketing and representing the book as a memoir and true and honest work of non-fiction. Mr. Frey undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Cook County, Illinois in that, at all relevant times, he has profited from sales of the book, represented as described herein, in Cook County, Illinois. Mr. Frey received a hefty cash advance from the publisher-Defendants for the sale of the book and on information and belief receives a portion of the profit from sales of the book.

8. Defendant, Alfred A. Knopf, Inc., a book publisher and a division and agent of Defendant Random House, Inc., promoted, marketed, published, represented and caused to be sold, the book, *A Million Little Pieces*, under the respected Anchor Books brand name, on behalf of itself and Random House, Inc., to and for consumption by Plaintiff and the Class, as a memoir and true and honest work of non-fiction. Alfred A. Knopf, Inc., undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Illinois.

9. Defendant Doubleday & Company, Inc. ("Doubleday"), a division and agent of Defendant Random House, Inc. and a respected name in the publishing industry, promoted, marketed, published, represented, and caused to be sold, the book, *A Million Little Pieces*, on behalf of itself and Random House, Inc., to and for consumption by Plaintiff and the Class as a memoir and true and honest work of non-fiction. Doubleday undertook said acts in Cook County, Illinois and elsewhere, and continuously transacts business in Illinois. Ms. Nan A. Talese is a Senior Vice President of Doubleday and the Publisher and Editorial Director of Nan

reportedly hailed Frey's graphic "memoir" as 'like nothing you've ever read before.' The show included emotional filmed testimonials, whereby employees of Winfrey's show lauded the book as revelatory, with some choking back tears. thesmokinggun.com. Plaintiff Vedral purchased the book, at least in substantial part, due to Oprah Winfrey's and Mr. Frey's favorable recommendation and description of the work as an inspiring memoir and work of non-fiction, as part of Mr. Frey's interview on the October 2005 Oprah Winfrey Show.

15. The Defendants, via the text and advertisements appearing on and in the book itself, Mr. Frey's numerous media interviews and book store appearances, and the Defendants' uniform representations of the book for media sales, have at all relevant times mutually represented, marketed and promoted the book to Plaintiff and the Class solely as a true, genuine story and work of non-fiction.

16. Without objection from any of the Defendants at any time, and at their request and as a result of their own listings, the book was featured on the New York Times best seller list and in numerous major book stores and media (e.g., amazon.com) in the non-fiction category and as a memoir.

17. Only very recently the Smoking Gun, an investigative news web site, reported that Mr. Frey "fictionalized his past" and "wholly fabricated or wildly embellished" many crucial accounts in the book, and further, that numerous other accounts central to the book and the story could not be verified. (*See, e.g.,* "A Million Little Lies," presently reported on thesmokinggun.com). Frey has since reportedly admitted to The Smoking Gun that he had embellished central details of his criminal career and purported incarceration – which constitute only some of the non-truths in the book – for obvious dramatic reasons.

18. Mr. Frey also has since admitted on the Larry King show, and on the Oprah Winfrey show in January 2006 that parts of his book were not true and accurate.

19. A January 26, 2006, news release on Random House, Inc.'s website conceded the significance of Mr. Frey's recent admissions, stating "It is not the policy or stance of this company that it doesn't matter whether a book sold as nonfiction is true."

20. More than 1.7 million copies of the memoir, first published in 2003 by Random House's Doubleday division, have been sold to Plaintiff and the Class, but 3.5 million copies have reportedly been printed.

21. Rather than recall the book, the publisher-Defendants have, to date been content to promise to include an nondescript editorial note entitled "new notes from the publisher and from the author" in editions of their book, but to continue to promote, market and sell it as a memoir and work of "non-fiction" and to reap continuing profits from the sale of same. In fact, Defendant Random House, Inc. has expressly denied that it is offering special refunds for the so-called "memoir".

22. Defendant Doubleday is reportedly printing new copies of the book, to capitalize on the recent media controversy surrounding the book's untruths and thereby receive substantial profits from the fruit of the Defendants' fraudulent and misleading representations.

23. Plaintiff and the Class purchased the book, and many of them, too, spent time reading it, expecting to receive a inspiring memoir and true tale of non-fiction. As a result of the Defendants' phony marketing and representations as a so-called memoir and honest work of non-fiction, Plaintiff and the Class were damaged and deceived.

CLASS ALLEGATIONS

24. Plaintiff brings this case as a class action, pursuant to 735 ILCS 5/2-801, on behalf of a Class of all persons who purchased *A Million Little Pieces*, in any media (e.g., books and CDs).

25. The Class is so numerous as to render joinder of the individual class members impracticable.

26. Common questions of law and fact predominate over questions as to the resolution of this case with respect to individual class members, including, without limitation:

a. Did Defendant Frey fabricate key portions of *A Million Little Pieces*?

b. Did each of the Defendants intend that Plaintiff and the Class rely on the depiction of the book as a "memoir" and a work of non-fiction in deciding to buy the book?

c. Were Plaintiff and the Class damaged by virtue of the Defendants' herein alleged conduct, in violation of the Illinois Consumer Fraud Act and the similar laws of other states?

d. Were each of the Defendants unjustly enriched by their herein alleged conduct?

27. Plaintiff's claims are typical of those of the Class and will adequately represent same; Plaintiff's interest is not antagonistic to those of the Class, and Plaintiff's counsel are experienced in class action litigation.

28. This case will not be unmanageable as a class action; indeed, the facts of this case are particularly conducive to a class action, in that Plaintiff alleges that she and the Class were damaged by the same, uniformly represented wrongful conduct.

COUNT I
Statutory Fraud

29. Plaintiff incorporates by reference and realleges the preceding paragraphs of the Complaint.

30. The Illinois Consumer Fraud Act (ICFA or "the Act"), 815 ILCS § 505 *et. al*, prohibits false, deceptive, misleading and unfair acts or practices, "....including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact...." 815 ILCS § 505/2.

31. Plaintiff, individually and on behalf of the Class, brings this cause pursuant to IPCA and the similar deceptive practices consumer protection acts of other states (hereinafter collectively "ICFA"), which are designed to protect consumers against deceptive or fraudulent business practices.

32. At all relevant times, Plaintiff and the other Class members were consumers or persons within the meaning of ICFA.

33. The Defendants' acts, misrepresentations and omissions as stated above occurred during the course of trade and commerce within the meaning of ICFA.

34. Each of the Defendants, mutually and on their own behalf, via their publishing and marketing campaign for the book including without limitation, via instructing retailers and sellers to sell and list the book in the category of non-fiction and/or memoir, via their representations and promotions on/in the book, and via Mr. Frey's numerous media interviews (e.g., newspapers and television) and public appearances in bookstores, uniformly misrepresented the work as a

non-fiction memoir and uniformly failed to disclose that the book was mere fiction – in order to create a marketable and profitable book product and increase book sales. Indeed, prior to the Defendant publishers' decision to market and make the book, other publishing houses had rejected the book when it was pitched to them as a work of fiction.

35. The Defendants each reasonably knew and intended that Plaintiff and the Class rely on the Defendants' said depiction of the book as a memoir and genuine account of non-fiction, in order to induce Plaintiff and the Class to purchase and read the book.

36. Plaintiff expected to receive a memoir and true nonfiction story because, by the time she purchased the book, she had viewed the Defendants' marketing and promotion of the book as a work of non-fiction and memoir, i.e., including the Defendants' representations and omissions contained on/in the book, the listing of the book for sale in the category of non-fiction and/or memoir, and Mr. Frey's interviews or public appearances, namely, his first interview on the Oprah Winfrey show in 2005. The putative Class members, too, expected to receive a memoir and true nonfiction story after being exposed to the Defendants' same marketing and promotional campaign, which, by design, conveyed the single-minded, and very profitable message that the book was a true tale.

37. The Defendants' acts, misrepresentations and omissions as described herein (i.e., portraying the book as a memoir and true non-fiction story), are false pretenses and material facts which induced Plaintiff and the Class to buy (and/or read) the books. For example, had Plaintiff and the Class members known of these wrongful practices and known that the book was not a memoir and a genuine account of the author's life, they would never have purchased the book.

38. The Defendants, by uniformly concealing, misrepresenting and failing to disclose

any of the aforementioned material facts (*see, e.g.*, ¶¶ 34-37), by the marketing the sale of the book under false pretense (*Id.*), and by engaging in the conduct alleged herein (*Id.*), proximately caused damage to Plaintiff and the Class who, by virtue of said conduct, did not buy (or get to read) what they reasonably expected.

39. The Defendants' mutual misrepresentation of the book as a memoir and a true and honest work of non-fiction, and concealment of crucial non-true stories that were built-in to dramatize the book, constitutes a deceptive practice and false promise and false pretense for purposes of selling the book to induce sales, in violation of ICFA.

40. The Defendants' above-stated conduct constitutes a continuing threat to the consuming public.

41. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, and should be enjoined from continuing the sale of the book.

COUNT II
Breach of Contract

42. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

43. Each of the Defendants, as alleged herein, mutually and collectively offered the book, *A Million Little Pieces*, to Plaintiff and the Class as a "memoir" and as a true non-fiction story.

44. Plaintiff and the Class accepted the Defendants' offer and paid for the book (including applicable taxes) as represented, i.e., as a memoir and non-fiction story, and paid consideration therefore.

45. The Defendants breached their contract with Plaintiff and the Class, in that, in truth and in fact *A Million Little Pieces* is not a memoir and is riddled with falsehoods and untruths.

46. As a result of the Defendants' breach, Plaintiff and the Class have been damaged, to the unjust enrichment of each of the Defendants, whose respective profits and revenues therefrom should be refunded and disgorged to Plaintiff and the Class.

COUNT III
Breach of Contract Implied in Law
– Pleaded in the Alternative

47. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

48. Each of the Defendants receive monies from sales of *A Million Little Pieces*, and each of the Defendants are unjustly enriched by sums they each illicitly recouped from Plaintiff and the Class, through their wrongful conduct as alleged herein.

49. The Defendants engaged in a concerted pattern of conduct, whereby Plaintiff and the Class, due to the Defendants' false and unfair marketing and depiction of the book as a memoir and true an honest work of non-fiction, remitted monies for the purchase of *A Million Pieces*, which unfairly inured to the benefit of each of the Defendants.

50. The amount of money paid by Plaintiff and the putative Class members, and received by the Defendants, for the purchase of the books at issue, exceeds the amount to which the Defendants are entitled, in that the book was falsely represented as a memoir, as non-fiction, and as a true and genuine story of an individual's trials and admirable rehabilitation as a drug addict.

51. As a result, the Defendants have unjustly retained the amount of payments they received from Plaintiff and the Class resulting from the purchase of the book, in breach of the

Defendants' contracts with Pl... implied in law; and the retention of said monetary benefits violates the principles of justice, equity, and good conscience.

52. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, should disgorge all profits collected from the sale of the book and should be enjoined from continuing the sale of same.

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually and on behalf of all others similarly situated, prays that this Honorable Court:

A. Certify this case as a class action, and appoint Plaintiff as class representative and Plaintiff's counsel as class counsel;

B. Award such damages and equitable relief to Plaintiff and the Class as the Court deems appropriate;

C. Find that each of the Defendants violated the ICFA, and were unjustly enriched or alternatively breached their contracts with Plaintiff and the Class, as alleged herein;

D. Award reasonable attorney's fees and costs; and

E. Grant such other relief as it deems just.

By: ______________________
One of Plaintiff's Attorneys

Larry D. Drury
Ilan Chorowsky
Larry D. Drury Ltd.
205 W. Randolph Street, Suite 1430
Chicago, IL 60606
(312) 346-7950
Atty. No. 22873

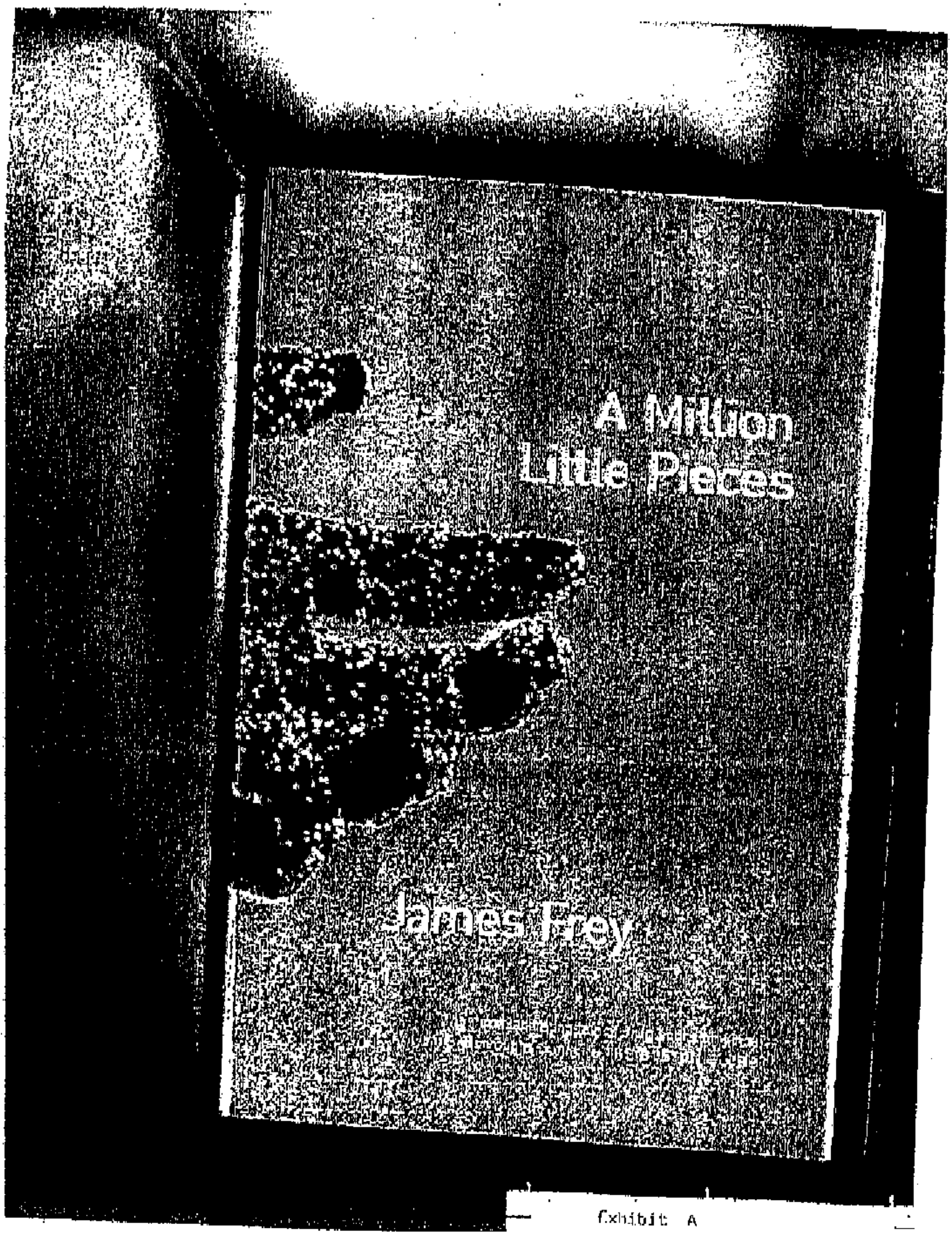
A Million
Little Pieces
James Frey

Exhibit A

acclaim for james frey's

a million little pieces

"A frenzied, electrifying description of the experience."
—*The New Yorker*

"We finish *A Million Little Pieces* like miners lifted out of a collapsed shaft: exhausted, blackened, oxygen-starved, but alive, thrillingly, amazingly alive."
—*Minneapolis Star-Tribune*

"One of the most compelling books of the year. . . . Incredibly bold. . . . Somehow accomplishes what three decades' worth of cheesy public service announcements and after-school specials have failed to do: depict hard-core drug addiction as the self-inflicted apocalypse that it is."
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—*New York*

"An intimate, vivid and heartfelt memoir. Can Frey be the greatest writer of his generation? Maybe."
—*New York Press*

"Incredible. . . . A ferociously compelling memoir."
—*The Plain Dealer*

"Insistent as it is demanding. . . . A story that cuts to the nerve of addiction by clank-clank-clanking through the skull of the addicted. . . . A critical milestone in modern literature."
—*Orlando Weekly*

"At once devastatingly bleak and heartbreakingly hopeful . . . Frey somehow manages to make his step-by-step walk through recovery compelling."
—*Charlotte Observer*

"A stark, direct and graphic documentation of the rehabilitation process. . . . The strength of the book comes from the truth of the experience."
—*The Oregonian*

"A virtual addiction itself, viscerally affecting. . . . Compulsively readable."
—*City Paper* (Washington, DC)

"Powerful . . . haunting . . . addictive. . . . A beautiful story of recovery and reconciliation."
—*Iowa City Press-Citizen*

"An exhilarating read. . . . Frey's intense, punchy prose renders his experiences with electrifying immediacy."
—*Time Out New York*

"Describes the hopelessness and the inability to stop with precision. . . . As anyone who has ever spent time in a rehab can testify . . . he gets that down too."
—*St. Louis Post-Dispatch*

"Frey comes on like the world's first recovering-addict hero. . . . [His] criticism of the twelve-step philosophy is provocative and his story undeniably compelling."
—*GQ*

"[A] gruesomely absorbing memoir, told in stripped-down, staccato prose."
—*Details*

"Frey has devised a rolling, pulsating style that really moves . . . undeniably striking. . . . A fierce and honorable work that refuses to glamorize [the] author's addiction or his thorny personality. . . . A book that makes other recovery memoirs look, well, a little pussy-ass."
—*Salon*

james frey

a million little pieces

James Frey is originally from Cleveland.
He is also the author of *My Friend Leonard*.
He is married and lives in New York.

a million little pieces

james frey

ANCHOR BOOKS
A DIVISION OF RANDOM HOUSE, INC.
NEW YORK

FIRST ANCHOR BOOKS EDITION, MAY 2004

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a

million

little

pieces

morning James was released from Jail, and it is believed that she was sober until she died.

Lincoln still works at the Clinic.

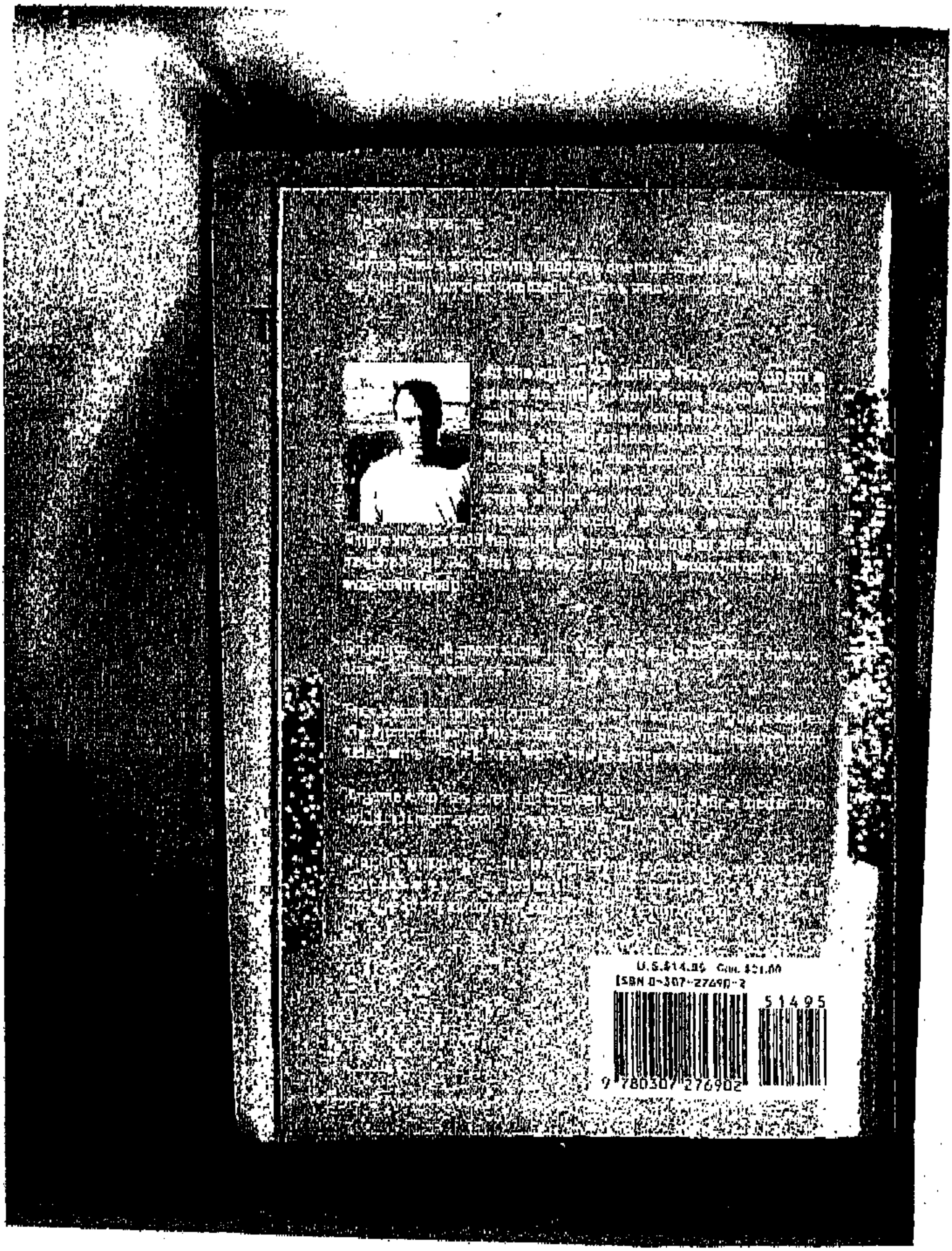
Ken still works at the Clinic.

Hank and Joanne got married. Both still work at the Clinic.

James has never relapsed.

• • •

Thank you Mom and Dad for everything, thank you Mom and Dad. Thank you Brother Bob and Sister-in-Law Laura. Thank you Maya, I love you Dearest Maya. Thank you Kassie Evashevski. Thank you Sean McDonald. Thank you Nan Talese. Thank you David Krinsman. Thank you Preacher and Bella my little Friends. Thank you Stuart Hawkins, Elizabeth Sosnow, Kevin Yorn, Amar Douglas Rao, Michael Craven, Quinn Yancey, Christian Yancey, Ingrid Sisson, John Von Brachel, Helen Mosley, Jean Joseph Jr., Joshua Dorfman, Daniel Glasser, Marvin Klotz, Colleen Silva, Eben Strousse, Chris Wardwell. Thank you Theo, Rigo, Jose and the Boys at the Coffee Shop on the corner. Thank you Phillip Morris. Thank you Andrew Barrish and Keith Bray. Thank you Kirk, Julie, Kevin. Thank you Lilly, Leonard, Miles, I love you and I thank you.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KATHERINE J. TRAGER

FEB 14 2006

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED 8
2006 FEB -2 PM 1:28
DOROTHY BROWN
CLERK OF CIRCUIT COURT
OF COOK COUNTY

MARCIA VEDRAL, individually and on behalf of all others similarly situated,)

Plaintiff,)

vs.) No. 06 CH 02089

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.,)

Defendants.)

NOTICE OF FILING

James Frey
c/o Anchor Books Publishing Corp.
Publicity
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New York, NY 10019

Doubleday & Company, Inc.
c/o Prentice Hall Corporation
33 North LaSalle Street
Chicago, IL 60602-2607

Alfred A. Knopf, Inc. d/b/a
Anchor Books c/o
Alberto Vitale
201 East 50th Street
New York, NY 10022

Random House, Inc. c/o
Katherine J. Trager, Reg. Agent
1540 Broadway
22nd Floor
New York, NY 10036

PLEASE TAKE NOTICE that on the 2nd day of February, 2006, the undersigned filed with the Clerk of the Circuit Court of Cook County, Illinois, the attached Motion for Class Certification and Motion for Preservation of Documents, copies of which are hereby served upon

[signature]

LARRY D. DRURY
LARRY D. DRURY, LTD.
205 West Randolph, Suite 1430
Chicago, IL 60606
(312) 346-7950
Atty. No. 22873

CERTIFICATE OF SERVICE

The undersigned hereby certifies, under oath, that the above notice and pleadings were served upon all parties of record on February 2, 2006, by the following:

- personal delivery
- U.S. mail, overnight express
- U.S. certified mail, return receipt requested
- ✓ U.S. regular first class mail
- via Federal Express
- via facsimile transmission

(Printed Name)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

No. 06 CH 02089

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.,

Defendants.

2006 FEB 22 PM 1:29

MOTION FOR CLASS CERTIFICATION

NOW COMES Plaintiff, MARCIA VEDRAL, "VEDRAL" individually and on behalf of all others similarly situated, by and through their attorneys, LARRY D. DRURY, LTD., and JOHN H. ALEXANDER & ASSOCIATES, LLC, and respectfully move that this Court enter an order certifying and determining that this action may properly be maintained as a class action.

In support of this motion, Plaintiffs state that the Class on behalf of which this action is sought to be maintained may be defined as follows:

DEFINITION OF THE PLAINTIFF CLASS

All persons who purchased *A Million Little Pieces*, in any media (e.g., books and CDs).

1. Common questions of law or fact include, in part:

(a) Did Defendant Frey fabricate key portions of *A Million Little Pieces*;

(b) Did each of the Defendants intend that Plaintiff and Class rely on the depiction of the book as a "memoir" and a work of non-fiction in deciding to buy the book?

(c) Were Plaintiff and the Class damaged by virtue of the Defendants' conduct as alleged in the Class Action Complaint, in violation of the Illinois Consumer Fraud and the similar laws of other states?

(d) Were each of the Defendants unjustly enriched by their conduct as alleged in the Class Action Complaint?

2. The claims and acts of the representative parties are typical of the claims of all members of the Plaintiff Class, Plaintiff being a consumer who purchased *A Million Little Pieces* from the Defendants

3. Plaintiff further states that the questions of law or fact with respect to the Defendants' conduct are common to the members of the Plaintiff Class and predominate over any questions of individual members.

4. Class adjudication is superior to all other available methods for adjudication of this controversy, i.e., there are thousands of putative Plaintiff Class members who purchased *A Million Little Pieces* from the Defendants and separate suits to litigate the legality of Defendants' acts and conduct concerning same would not be in the best interest of judicial economy and efficiency.

WHEREFORE, Plaintiff prays that the class of Plaintiffs, as defined herein, be certified and that she be appointed as class representative and that Larry D. Drury of Larry D. Drury, Ltd. be appointed as lead class counsel and John H. Alexander of John H. Alexander & Associates, LLC be appointed as class counsel.

Respectfully submitted,

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

By ______________________

LARRY D. DRURY
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Atty. No. 22873

JOHN H. ALEXANDER
JOHN H. ALEXANDER & ASSOCIATES,
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(312) 263-7731
Atty. No. 25849

2006 FEB -2 PM 1:29
CLERK OF THE CIRCUIT COURT

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

No. 06 CH 02089

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.,

Defendants.

MOTION FOR PRESERVATION OF DOCUMENTS

NOW COMES Plaintiff, MARCIA VEDRAL, individually and on behalf of all others similarly situated, by and through her attorneys, LARRY D. DRURY, LTD., and JOHN H. ALEXANDER & ASSOCIATES, LLC, and move this Honorable Court as follows:

1. On January 31, 2006, Plaintiff filed her Class Action Complaint seeking various relief and for the certification of a class as follows:

DEFINITION OF THE PLAINTIFF CLASS

> All persons who purchased A *Million Little Pieces*, in any media (e.g., books and CDs).

2. Defendants were aware of their conduct at all times relevant herein

3. Defendants' conduct in this matter raises serious issues in that this case concerns the following:

(a) Did Defendant James Frey fabricate key portions of A

Million Little Pieces;

(b) Did each of the Defendants intend that Plaintiff the Class rely on the depiction of the book as a "memoir" and a work of non-fiction in deciding to buy the book?

(c) Were Plaintiff and the Class damaged by virtue of the Defendants' conduct as alleged in the Class Action Complaint, in violation of the Illinois Consumer Fraud Act and the similar laws of other states?

(d) Were each of the Defendants unjustly enriched by their conduct as alleged in the Class Action Complaint?

4. Defendants' conduct and their continued refusal to recognize their culpability and compensate those who have been damaged, raised serious questions regarding future conduct may take in this matter.

5. The proper resolution of this litigation, and the rights of the parties, will depend upon documentation generated and maintained by the Defendants regarding *A Million Little Pieces*.

6. It is no great hardship on the Defendants to maintain the documents relevant to the subject matter of this litigation, since they are already in their actual or constructive care, custody or control, and their retention and preservation would further the interests of justice for all parties concerned.

7. Many corporations have record retention/destruction policies which set a period of time during which they retain documents. Even for corporations that do not presently have such a policy, such a policy could be adopted at any time. An order for the preservation of documents would prevent destruction of relevant documents under a claim that it was authorized by existing corporate policy.

WHEREFORE, Plaintiff moves this Honorable Court to enter an order of preservation of documents in the form attached hereto as Exhibit A or in such other form as this Court deems appropriate.

Respectfully submitted,

MARCIA VEDRAL, individually and on behalf of all others similarly situated,

By ________________

LARRY D. DRURY
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

MARCIA VEDRAL, individually and on behalf of all others similarly situated,)

Plaintiff,

vs. No. 06 CH 02089

JAMES FREY, DOUBLEDAY & COMPANY, INC., ALFRED A. KNOPF, INC. d/b/a ANCHOR BOOKS and RANDOM HOUSE, INC.,

Defendants.)

ORDER

THIS CAUSE COMING ON TO BE HEARD on the Motion for Preservation of Documents and the Court being duly advised in the premises;

IT IS HEREBY ORDERED:

1. During the pendency of this litigation or until further order of this Court, Defendants and their respective officers, agents, servants, employees, attorneys and accountants shall not alter, destroy or otherwise dispose of any "document" relating or relevant to the publication *A Million Little Pieces*, as alleged in the Class Action Complaint, in the actual or constructive care, custody or control of each such party from the date of entry of this Order forward, wherever such document is physically located.

EXHIBIT A

2. The term "document" and the scope of this Order shall have the meaning ascribed in Rule 201(b) of the Illinois Supreme Court Rules and shall, without limiting the generality of the foregoing, include the original and any non-identical copies thereof of any writing, drawing, map, blueprint, film, chart photograph, audio and video tape recordings and transcripts thereof, and retrievable data, whether electromechanically or electromagnetically recorded and other data compilations from which information can be obtained relating or relevant to *A Million Little Pieces*, including but not limited to notices, memoranda, diaries, minutes, purchase records, purchase invoices, correspondence, computer storage, tapes, computer storage cards or disks, books, journals, ledgers, statements, reports, invoices, bills, vouchers, worksheets, jottings, notes, letters, abstracts, audits, charts, checks, diagrams, drafts, recordings, instructions, lists, logs, orders, recitals, telegram messages telephone bills and logs, resumes, summaries, compilations, computations and other formal and informal writings or tangible preservations of information.

3. Defendants shall be responsible for providing notice of this Order to their respective officers, agents, servants, employees, attorneys and accountants, and shall be responsible for compliance with this Order by such persons

4. If counsel are unable to resolve disputes regarding the scope or implementation of this Order, any party may apply to the

Court for clarification or relief from this Order upon reasonable notice. All documents which are the subject to such disputes shall be preserved pending a ruling by the Court.

Dated:

ENTER:

____

LARRY D. DRURY
LARRY D. DRURY, LTD
205 West Randolph
Suite 1430
Chicago, IL 60606
(312) 346-7950
Atty. No. 22873

JOHN H. ALEXANDER
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Atty. No. 25849

EXHIBIT B

DECLARATION OF DONALD WEISBERG

Pursuant to 28 U.S.C. § 1746, Donald Weisberg declares and states as follows:

1. My name is Donald Weisberg. I am over the age of 21 and am competent to testify as to the statements set forth in this declaration.

2. I am currently the Executive-Vice President and Chief Operating Officer, North America, of Random House, Inc. ("Random House"), a position I have held since November 2001. In my position, I am familiar with sales figures for books published by Random House and its related corporate entities.

3. I am familiar with the book "A Million Little Pieces," by James Frey. In 2003, "A Million Little Pieces" was published in hardcover by Nan A. Talese, an imprint of Doubleday, a division of Random House. In 2005, "A Million Little Pieces" was published in paperback by Anchor Books, a division of Random House.

4. The suggested retail price of the hardcover edition of the book was $22.95. The suggested retail price for the paperback edition of the book was $14.95.

5. I have reviewed sales figures for "A Million Little Pieces" maintained by Random House in the normal and ordinary course of its business. Through January 7, 2006, Random House sold and shipped to retailers more than 2.5 million copies of the paperback edition. Based on the suggested retail price listed above, the total amount of sales to consumers of "A Million Little Pieces" exceeds $5,000,000.

6. I have also reviewed retail "point of sales" data provided by certain third-parties. Based on this data, I have determined that copies of "A Million Little Pieces" were sold to consumers in all fifty states and that sales to consumers in no single state accounted for more than 33 percent of the total sales to consumers.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on February 16, 2006 at NEW YORK, NEW YORK.

Donald Weisberg

CERTIFICATE OF SERVICE

Michael C. Andolina, an attorney, hereby certifies that he caused a true and correct copy of the foregoing **NOTICE OF REMOVAL** to be served by messenger on:

Larry D. Drury
Larry D. Drury, Ltd.
205 W. Randolph, #1430
Chicago, IL 60606
(312) 346-7950

on this 21st day of February 2006.

Michael C. Andolina

CHI 3444374v.1